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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

6 J'MAR TEUYAN TARAFa,

7 Plaintiff,

Case No. 3:18-cv-00201-MMD-WGC

ORDER

8 v.

9 TAUNA TARAFa, et. al.

10 Defendants.
11

12 Before the court is Plaintiff's Application to Proceed in Forma Pauperis (IFP). (ECF No.
13 8).

14 A person may be granted permission to proceed IFP if the person "submits an affidavit that
15 includes a statement of all assets such [person] possesses [and] that the person is unable to pay
16 such fees or give security therefor. Such affidavit shall state the nature of the action, defense or
17 appeal and affiant's belief that the person is entitled to redress." 28 U.S.C. § 1915(a)(1); *Lopez v.*
18 *Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000) (en banc) (stating that 28 U.S.C. § 1915 applies to all
19 actions filed IFP, not just prisoner actions).

20 In addition, the Local Rules of Practice for the District of Nevada provide: "Any person
21 who is unable to prepay the fees in a civil case may apply to the court for authority to proceed
22 [IFP]. The application must be made on the form provided by the court and must include a financial
23 affidavit disclosing the applicant's income, assets, expenses, and liabilities." LSR 1-1.

24 "[T]he supporting affidavits [must] state the facts as to [the] affiant's poverty with some
25 particularity, definiteness and certainty.'" *U.S. v. McQuade*, 647 F.2d 938, 940 (9th Cir. 1981)
26 (quoting *Jefferson v. United States*, 277 F.2d 723, 725 (9th Cir. 1960)). A litigant need not "be
27 absolutely destitute to enjoy the benefits of the statute." *Adkins v. E.I. Du Pont de Nemours & Co.*,
28 335 U.S. 331, 339 (1948).

1 When a prisoner seeks to proceed without prepaying the filing fee:

2 [I]n addition to filing the affidavit filed [as described above], [the prisoner] shall
3 submit a certified copy of the trust fund account statement (or institutional
4 equivalent) for the prisoner for the 6-month period immediately preceding the filing
of the complaint or notice of appeal, obtained from the appropriate official of each
prison at which the prisoner is or was confined.

5 28 U.S.C. § 1915(a)(2). Notwithstanding the foregoing:

6 (1) ... [I]f a prisoner brings a civil action...[IFP], the prisoner shall be required to
7 pay the full amount of a filing fee. The court shall assess and, when funds exist,
8 collect, as a partial payment of any court fees required by law, an initial partial
9 filing fee of 20 percent of the greater of --

10 (A) the average monthly deposits to the prisoner's account; or

11 (B) the average monthly balance in the prisoner's account for the 6-month period
12 immediately preceding the filing of the complaint or notice of appeal.

13 (2) After payment of the initial partial filing fee, the prisoner shall be required to
14 make monthly payments of 20 percent of the preceding month's income credited to
15 the prisoner's account. The agency having custody of the prisoner shall forward
16 payments from the prisoner's account to the clerk of the court each time the amount
17 in the account exceeds \$10 until the filing fees are paid.

18 28 U.S.C. § 1915(b)(1), (2).

19 Plaintiff submitted his original IFP application on May 3, 2018, but it was not the correct
20 IFP application for an inmate, and it was not accompanied by the required trust fund account
21 statement or institutional equivalent. (ECF No. 1.) On May 9, 2018, the court issued an order
22 directing the Clerk to send Plaintiff a copy of the instructions and application to proceed IFP for
23 an inmate, and gave Plaintiff thirty days to file a completed IFP application with a certified copy
24 of the trust fund account statement and financial certificate signed by a person authorized on behalf
25 of the institution where Plaintiff is incarcerated, i.e., the Humboldt County Detention Center.
26 (ECF No. 3.) Plaintiff was further advised that once a completed application was filed, or the filing
27 fee was paid, the court would screen his complaint; and, even if he was granted IFP status, he
28 would still be responsible for paying the \$350 filing fee over time.

Plaintiff filed another IFP application on May 14, 2018. (ECF No. 4.) This application was
also not accompanied by a certified copy of the trust fund account statement or a financial
certificate indicating his average monthly balance and deposits. Instead, Plaintiff signed the
financial certificate indicating a \$55 account balance and \$0 in average monthly deposits. He wrote
in that the officers refused to verify.

1 The court advised Plaintiff that a certified copy of the trust fund account statement is
2 required by 28 U.S.C. § 1915. Without it, the court cannot verify Plaintiff's ability or inability to
3 pay the filing fee. As such, the IFP application was denied without prejudice. (ECF No. 6.) Plaintiff
4 was given one final opportunity to submit a completed IFP application or pay the filing fee, noting
5 that he could present the court's order to officials at Humboldt County Detention Center as proof
6 that the court requires a certified copy of the trust fund account statement and financial certificate
7 signed by a person authorized on behalf of the detention center. He was given twenty-one days to
8 file the completed IFP application, noting that a failure to comply would subject his action to a
9 recommendation for dismissal without prejudice.

10 On May 30, 2018, Plaintiff filed his third IFP application. (ECF No. 8.) Plaintiff filed a
11 financial certificate which states average monthly balance and deposits, and he provides a resident
12 history report from the Humboldt County Detention Center, but the financial certificate is not
13 signed by a person authorized on behalf of the detention center, as was required by the court's
14 prior orders. The court cannot verify Plaintiff's representations regarding his average balance and
15 deposits as it cannot independently interpret the resident history report to determine whether those
16 representations are correct.

17 Plaintiff has **FOURTEEN (14) DAYS** from the date of this Order to submit a financial
18 certificate that is **signed by a person authorized on behalf of the Humboldt County Detention**
19 **Center**, verifying that the information provided concerning Plaintiff's average monthly balance
20 and deposits is correct. A failure to do so will result in a recommendation that the latest IFP
21 application be denied, and the action should be dismissed without prejudice.

22 **IT IS SO ORDERED.**

23 DATED: June 6, 2018.

24 

25 WILLIAM G. COBB
26 UNITED STATES MAGISTRATE JUDGE
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